

MINUTES OF THE AVONDALE CITY COUNCIL
CITY OF AVONDALE, ARIZONA
CITY COUNCIL CHAMBER
February 26, 2024

A **Regular Meeting** of the City Council of the City of Avondale, Arizona was convened at 11465 West Civic Center Drive in open and public session at 5:30 p.m.

Mayor Kenn Weise led the Pledge of Allegiance and Council Member Conde requested all to keep former Council Member in their thoughts as followed by a moment of silent reflection .

Members Present: Mayor Kenn Weise; Vice Mayor Mike Pineda; Council Members Tina Conde, Veronica Malone, Curtis Nielson, Gloria Solorio, and Max White.

Members Absent: None.

Other Municipal Officials Present: Ron Corbin, City Manager; Tracy Stevens, Assistant City Manager; Nicholle Harris, City Attorney; Marcella Sarmiento, City Clerk; Liz Barker Alvarez, Intergovernmental Affairs Administrator; Kirk Beaty, Public Works Director; Ken Chapa, Economic Development Services Director; Barbara Coppage, City Auditor; Memo Espinoza, Police Chief; Joel Evans, Facilities Director; Bryan Hughes, Parks and Recreation Director; Julie Knoll; Deputy City Clerk; Chris Lopez, Neighborhood and Family Services Director; Andy Mesquita, Human Resources Director; Kimberly Moon, Engineering Director; Dale Nannenga, Public Safety Chief; Jodie Novak, Development Services Director; Larry Rooney, Fire Chief; Jeffrey Scheetz, Chief Information Officer; Pier Simeri, Marketing and Public Relations Director; and Renee Weatherless, Finance and Budget Director.

Audience: Approximately fifty members of the public were present.

1. ROLL CALL BY THE CITY CLERK

2. PRESENTATION ITEMS (DISCUSSION ONLY)

a. EMPLOYEE INTRODUCTIONS AND ANNOUNCEMENTS

The following employees were presented to City Council. This item was for discussion only.

Fire and Medical Department – New Employee Introductions

- Justin Shuman, Firefighter
- Ramon Camarena Valadez, Firefighter
- Jonathan Tompkins, Firefighter
- Brandon Grant, Firefighter
- Brendin Hartly, Firefighter
- Jeremy Mata, Firefighter
- Travis Samuelson, Fire Plans Examiner

Fire and Medical Department – Swearing-In Ceremony

- Kristina Lopez, Fire Captain (Promotion)

b. PROCLAMATION - TEEN DATING VIOLENCE AWARENESS MONTH

City Council presented a Proclamation recognizing February 2024 as Teen Dating Violence Awareness Month. This item was for discussion only.

c. PROCLAMATION - BLACK HISTORY MONTH

City Council presented a Proclamation recognizing February 2024 as Black History Month. This item was for discussion only.

d. AZ RED RAPTORS PROCLAMATION

City Council presented a Proclamation recognizing the Arizona Red Raptors.

3. UNSCHEDULED PUBLIC APPEARANCES

None.

4. CONSENT AGENDA

Items on the consent agenda are of a routine nature or have been previously studied by the City Council at a work session. They are intended to be acted upon in one motion. Council members may pull items from consent if they would like them considered separately.

Mayor Weise asked if any Council Member wished to have an item removed from the Consent Agenda. A motion was made by Vice Mayor Pineda, seconded by Council Member Nielson, to approve the Consent Agenda with the exception of agenda item 4e and 4f as both items were pulled at the request of staff.

Upon vote, the motion was carried unanimously 6 to 0.

Council Member Conde	Aye
Council Member Nielson	Aye
Council Member Solorio	Aye
Council Member White	Aye
Vice Mayor Pineda	Aye
Mayor Weise	Aye

Council Member Malone stepped out of the room and was absent for the vote of the Consent Agenda.

a. MINUTES

City Council approve the January 8, 2024 and January 22, 2024 City Council meeting minutes.

b. AMENDED CALL AND NOTICE OF ELECTION

City Council (a) approved the amended Call and Notice of Election of a candidate Primary Election to be held on July 30, 2024 and if necessary, a candidate runoff General Election on November 5, 2024; (b) authorized staff to add issues to the ballot as directed by Council, or by appropriate administrative action; and (c) authorized the City Clerk and the City Attorney to take all action necessary to conduct the election.

c. WIRELESS PROVIDER MASTER LICENSE FOR USE OF RIGHT-OF-WAY FOR CROWN CASTLE FIBER LLC

City Council approved a Wireless Provider Master License for Use of Right-of-Way with Crown Castle Fiber LLC to install small wireless facilities (SWF) within the City's right-of-way and authorized the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents.

d. RESOLUTION 1018-0224 AND 1019-0224 – MAINTENANCE IMPROVEMENT DISTRICT NO. 34 - ALAMAR PHASE 5 - APPLICATION PL-23-0149

City Council (a) approved a Petition for Formation; (b) adopted Resolution 1018-0224, declaring its intention to form the City of Avondale Maintenance Improvement District No. 34, Alamar Phase 5, providing for the assessment; (c) adopted Resolution 1019-0224, declaring its intention to order the improvements within the newly established maintenance improvement district, providing for the assessment and declaring an emergency; and (d) authorized the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. Alamar Phase 5 is located at the northeast corner of the intersection of Alamar Boulevard and Dysart Road, immediately west of Alamar Park.

Note from the Clerk: The following agenda items were pulled at the request of staff and will be heard at a future City Council meeting.

e. RESOLUTION 1020-0224 AND 1021-0224 – MAINTENANCE IMPROVEMENT DISTRICT NO. 35 - THREE RIVERS RANCH – MASTER PLAT

City Council was to consider a request to: (a) approve the Petition for Formation; (b) adopt Resolution 1020-0224 declaring its intention to form the City of Avondale Maintenance Improvement District No. 35, Three Rivers Ranch – Master Plat, providing for the assessment; (c) adopt Resolution 1021-0224, declaring its intention to order the improvements within the newly established maintenance improvement district, providing for the assessment and declaring an emergency; and (d) authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents.

f. THREE RIVERS RANCH MASTER FINAL PLAT – APPLICATION PL-23-0277

City Council was to consider a request to: (a) approve Application PL-23-0277, a request by Jason Burm with Kimley-Horn and Associates, Inc., on behalf of Jim Stockwell with Three Rivers Ranch, LLC, for approval of a master final plat for Three Rivers Ranch located west of the intersection of Alamar Boulevard and Dysart Road, and (b) authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents.

Note from the City Clerk: Agenda items 5a and 5b were presented together and voted on separately.

5. REGULAR AGENDA

a. PUBLIC HEARING AND RESOLUTION 1022-0224 - SUN DEPOT – MAJOR GENERAL PLAN AMENDMENT – APPLICATION PL-23-0053

City Council held a public hearing and considered a request to adopt Resolution 1022-0224, a request by Paul Burman, Invenergy, on behalf of property owner Sun Depot Energy Storage LLC, to amend the General Plan 2030 Land Use Map for approximately 15.92 gross acres of land located approximately 330 feet west of the southwest corner of Palm Lane and Avondale Boulevard and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The proposed Major General Plan Amendment (GPA), if approved, will amend the General Plan 2030 Land Use Map designation from Mixed Use to Public/Civic.

Josh Orton, Senior Planner of Development Services, presented PL 23-0053 Sun Depot Energy Storage LLC, to amend the General Plan 2030 Land Use Map for approximately 15.92 gross acres of land located approximately 330 feet west of the southwest corner of Palm Lane and Avondale Boulevard that was annexed into the City in 2006 and PL 23-0177 Sun Depot Energy Storage LLC, to rezone the same property from Agricultural (AG) to Planned Area Development (PAD)

North of Palm Lane is Canyon Breeze Elementary School zoned agriculture and single-family residences zoned Palm Gardens PAD. South is McDowell Villas PAD for future town home rentals and Avondale Commons PAD zoned mixed use which is under construction for Apartments and future commercial and offices. Southeast Phoenix Children's Hospital is further in the background. East are larger single-family residences and west are two electrical substations owned by APS and SRP within Maricopa County jurisdiction.

The request is to amend the General Plan Land Use designation from mixed use to Public/Civic. An explanation of the type of uses allowed under the mixed use and public/civic use was provided. The proposed use for this site is a privately owned battery energy storage facility that is intended to sell stored energy to APS and SRP. There is also a request to rezone the property from Agricultural to Sun Depot Planned Area Development (PAD) to allow for the development of the battery storage facility. A conceptual site plan has been provided, and if the project is approved, the development must conform to the PAD narrative presented to staff. The site is made up of battery storage with two egress and ingress points along West Palm Lane, an 8-foot screen wall, and a gravel drive aisle around the perimeter. Additional deviations include allowance of galvanized chain link fencing, decreased land use buffer plantings, decreased right of way plantings, and decreased land use setback plantings. There is no request for a reduction in setback dimensions in the PAD deviations.

Staff analysis finds the amendment does not constitute an improvement to the 2030 plan. The current mixed-use designation is more suitable for the site and surrounding area, despite the proximity to an electrical substation, which is in Maricopa County. A battery energy storage system project would be incompatible with the existing residential, educational, and hospital uses in the vicinity in terms of environmental and safety concerns from a potential fire event and in terms of aesthetics. A review of surrounding land uses was provided, noting the proposed land use change is compatible in terms of land use and the existing intensity of properties under the City's jurisdiction.

Fire Incident considerations from the Fire Marshall include the scale of the systems is directly correlated to the effects of their failure, meaning the larger the system the more danger it presents if it were to fail; fire suppression practice involves a defensive approach; neighborhood evacuations are probable due to the toxic fumes; and effects could spread as far as the freeway.

The neighborhood meeting was held on January 4, 2024, at City Hall with nine attendees along with members of the applicant's team and one Planning Commissioner. The items discussed were related to safety, fire event responses, traffic impact, potential improvements to Palm Lane, benefits to Avondale, and the specific details about the batteries and security of the site. Phoenix Children's Hospital expressed concerns related to harmful airborne contaminants and potential evacuations.

The City has notified the required agencies and began a 60-day review process. Luke Air Force Base indicated this project would not affect their operations and Arizona Game and Fish had preliminary mitigative comments. Eighteen comments were received through Avondale Connect. Fifteen were in opposition and three were in favor of the project. At the first Planning Commission hearing, two citizens spoke in opposition at the hearing and one individual expressed support. The Planning Commission at the February 24, 2024, meeting voted 4-0 to recommend denial of both applications, citing the project intensity, relationships to surrounding uses, safety concerns and public input.

Staff recommends denial of Application PL-23-0053 request for Major Amendment to General Plan 2030 Land Use Map changing the land use designation for the subject property from mixed use to public/civic and PL-23-0177 request to rezone approximately 15.92 gross acres from agricultural to Sun Depot PAD.

Mayor Weise opened the public hearing and received four requests to speak.

The City Clerk read the following public comment into the record from Travis Wright, "Dear Mayor Weise, Vice-Mayor Pineda, and Council Members, QTS would like to express our support for the Sun Depot Energy Center, a battery storage facility proposed by Invenergy in Avondale. The Phoenix metropolitan area has one of the fastest rates of growth in the country, with no signs of slowing down, and will need to significantly increase its resource capacity to meet projected energy demand. The Phoenix area is also one of the top five markets for data center capacity in the U.S. As an industry-leading provider of data center solutions, we rely on reliable electricity to run our data centers, and we support the development of additional clean energy resources in Avondale, including the Sun Depot Energy Center. Sincerely, Travis Wright"

Arielle Terry spoke in support of the project, noting battery storage would allow energy independence, enhanced grid reliability during hot summer days and for the increased population, and the approximate \$40 million in revenue for Avondale. This project carries the same risks as the gas station in the neighborhood. Invenergy has only had two fire incidents that were after 150,000 hours of service, self-contained, and did not result in any injuries.

Layla Villasenor from Palm Gardens PAD respectfully asked the City Council to deny the application. In addition, Ms. Villasenor along with her neighbors and HOA created an outreach effort related to this proposed development that resulted in over 100 letters being sent to the City Council. The Planning Department and Planning Commission articulated the citizens' concerns to keep the Phoenix Children's Hospital, the schools, and community safe. They are not anti-development and agree energy storage is important, but this is not the appropriate site. Especially if there is the slightest chance of harm to the children, homes, families, etc., then they encourage finding another location.

Kristiana Faddoul spoke in favor of Sun Depot Energy because it will benefit the community. As a clean energy and environmental justice advocate, she acknowledges there are risks but it can be very safe with advanced technology. Avondale needs clean and reliable energy to meet the increased population and intense weather events and notes that battery storage can provide this to keep the homes and businesses running more reliably. Regarding safety concerns, Invenergy uses state-of-the-art technology and follows extreme safety procedures. She encouraged the City Council, that if battery storage is not approved on this site, to then think about it for another site because Avondale needs clean and safe energy.

Mayor Weise closed the public hearing and opened the floor to the applicant.

Paul Burman, spoke on behalf of the applicant Invenergy, Inc. Invenergy is the leading privately held energy company in the U.S. that has implemented battery energy storage projects across the country with nine in Arizona and two more coming online this year including one in Youngtown that will be operational within a couple of months. The company works closely with fire and safety officials and is confident in their ability to provide projects that are safe. The company knows how to build safe systems, operate them to be profitable, and serve the needs of the community. Invenergy has also committed to the deviations required by the Planning Department including upgrading a part of Palm Lane and any other way they can give back to the community.

The biggest risk in the Avondale and Phoenix area is the widespread grid failure related to chronic underinvestment in opportunities to shore up the grid during increased power rates. Grid failures put people's lives at risk when they are unable to access cooling systems and needed medical equipment and then overwhelm emergency services. Utility companies must ensure they have adequate resources to cover surging demand. Private developers, such as Invenergy, are providing solutions to APS to ensure they can meet their demands. Mr. Burman further noted the demands on APS are expected to double over the next fifteen years. This type of technology is necessary, and without rapid deployment of additional energy resources, there are going to be major problems that

impact beyond this community. He notes Invenergy is offering an opportunity for the community to shore up the power grid and secure energy in a way that Avondale employees including building officials and fire officials can sign off on it.

People who are scared and worked up often share “half-truths” or misinformation that does not properly represent the actual risks of the project nor is it a dutiful approach to this decision-making process. While modeling the worst-case scenarios, it is based on specific technology that would be deployed at the time of building based on detailed studies and research of hazard mitigation analysis, risk profile, and failure modes and analysis as well as fire assessments and community risks assessments that help design a system that is contained within the four walls of the project. All of this data gets put before the Fire Marshall, who is the safety expert for the city and with whom Invenergy works collaboratively with. There was just an emergency response plan training and monitoring in Youngtown in December related to a similar project that did not include evacuations.

This project is not going to be completed tomorrow. This is simply a request for a zoning change and general plan amendment so we can consider this later. Mr. Burman would like to find a way to leave the proposal on the table so they can find a way to work through this together, and when the time comes for this project to be built, it can be done collaboratively, utilizing the best information and technology available.

Mayor Weise closed the public hearing and opened the floor to comments from the City Council.

Mayor Weise explained the Council looks at many factors including the best and highest use of the land, compatibility with surrounding neighborhood, safety, Zoning Commission’s position, and staff’s position. Another important factor is the necessity of the project. Mayor Weise then referenced the recent approval of the Sierra Estrella Energy Storage project in South Avondale. As one of the largest such projects in the state, it shows the City’s commitment to energy reliability in the grid and is not close to residential homes or schools. However, regarding this proposal, he continues to have safety concerns regarding the potential for toxic fumes to escape and jeopardize the safety of the community.

Council Member Conde expressed concern with the potential for toxic fumes affecting the safety of the children and community and noted this is not the right location.

Council Member Malone echoed the comments of Mayor Weise and Council Member Conde. She noted this type of facility is not opposed but the location is a concern for the safety of the community.

Council Member White noted residents have a huge impact on what happens in Avondale and Avondale has adequate energy resources with one of the battery storage facilities being built nearby in Youngtown. As a parent, she noted that she finds the potential risks scary, and she is sure the company will continue to develop battery locations at different locations.

Council Member Nielson discussed his personal use of solar panels and potential use of battery storage. His concern is the unknown of how the extreme heat will affect the batteries, and like other Council Members, the location is not appropriate.

Council Member Solorio echoed other Council Member concerns related to location and safety concerns.

Vice Mayor Pineda noted both sides have compelling arguments, but he must listen to the residents.

Vice Mayor Pineda moved to deny Resolution 1022-0224, a request to amend the General Plan 2030 Land Use Map, designation from Mixed Use to Public/Civic - Application PL-23-0053; Council Member Solorio seconded the motion.

Upon vote, the motion was carried unanimously 7 to 0.

Council Member Conde	Aye
Council Member Malone	Aye
Council Member Nielson	Aye
Council Member Solorio	Aye
Council Member White	Aye
Vice Mayor Pineda	Aye
Mayor Weise	Aye

b. PUBLIC HEARING AND ORDINANCE 2004-0224 - SUN DEPOT - REZONE – APPLICATION PL-23-0177

City Council held a public hearing and considered a request to adopt Ordinance 2004-0224, a request by Paul Burman, Invenergy, on behalf of property owner Sun Depot Energy Storage LLC, to rezone approximately 15.92 gross acres of land located approximately 330 feet west of the southwest corner of Palm Lane and Avondale Boulevard from Agricultural (AG) to Planned Area Development (PAD) and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The proposed rezone would allow for a private battery energy storage facility.

Mayor Weise opened the public hearing and did not receive any additional requests to speak.

Council Member Solorio moved to deny Ordinance 2004-0224, a request to rezone approximately 15.92 gross-acres from Agricultural (AG) to Sun Depot Planned Area Development (PAD) - Application PL-23-0177; Council Member Conde seconded the motion.

Upon vote, the motion was carried unanimously 7 to 0.

Council Member Conde	Aye
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Council Member Malone	Aye
Council Member Nielson	Aye
Council Member Solorio	Aye
Council Member White	Aye
Vice Mayor Pineda	Aye
Mayor Weise	Aye

6. SUMMARY OF CURRENT EVENTS FROM MAYOR, VICE MAYOR, AND COUNCIL MEMBERS

Mayor Weise discussed Prop 479 formally known as Prop 400 and upcoming meetings.

Council Member Nielson noted City Hall is open for voting until March 19, 2024.

Liz Barker Alvarez, Intergovernmental Affairs Administrator, announced that Dr. Elda Luna-Najera was approved by the Board of Supervisors to fill the LD22 vacant seat for the House of Representatives. A congratulatory letter will be sent from Council, and she will be briefed on legislation that is impacting the City of Avondale.

7. ADJOURNMENT

There being no further business before the Council, Council Member Malone moved to adjourn the Regular Meeting into Executive Session pursuant to Ariz. Rev. Stat. § 38-431.03 (A)(3) and (A)(4), discussion with the City Attorney or attorneys for the City for legal advice concerning contemplated or pending litigation and to instruct the City Attorney and attorneys for the City on such litigation for the claim and matters of : (i) Rogelio Jacquez (ii) Keitha Tucker vs. City of Avondale, et al., (iii) Charles Montoya vs. City of Avondale, et al.; Council Member White seconded the motion.

Upon vote, the motion was carried unanimously 7 to 0.

Council Member Conde	Aye
Council Member Malone	Aye
Council Member Nielson	Aye
Council Member Solorio	Aye
Council Member White	Aye
Vice Mayor Pineda	Aye
Mayor Weise	Aye

The meeting was adjourned at 07:10 p.m.


K Weise (Apr 8, 2024 19:10 PDT)

Kenn Weise, Mayor

CERTIFICATION AND ATTESTATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Meeting of the Council of the City of Avondale held on the 26th day of February 2024. I further certify that the meeting was duly called and held, and that the quorum was present.



Marcella Sarmiento, City Clerk

April 8, 2024

Date Approved by City Council